

**Community Corrections Task Force  
Colorado Commission on Criminal and Juvenile Justice**

**Minutes**

February 11, 2016 1:00PM-4:30PM  
710 Kipling, 3<sup>rd</sup> floor conference room

**ATTENDEES:**

**CHAIR**

Pete Weir, 1<sup>st</sup> Judicial District

**TASK FORCE MEMBERS**

Dennis Berry, Mesa County Criminal Justice System

Dana Wilkes, Division of Probation Service

Valarie Schamper for Glenn Tapia, Division of Criminal Justice

Greg Mauro, City and County of Denver, Community Corrections Boards

Gregg Kildow, Intervention Community Corrections Services

Joe Cannata, Voices of Victims

Kevin Strobel, Public Defender

Melissa Roberts, Department of Corrections/Adult Parole

Paul Hollenbeck, Department of Corrections /Offender Services

Rose Rodriguez, Independence House

**ABSENT**

Alexandra Walker, Parole Board

Dave Weaver, Douglas County Commissioner

Harriet Hall, Jefferson Center for Mental Health

John Cooke, Senate District 13

Kathryn Otten, Jefferson County Justice Services

Mike McIntosh, Adams County Sheriff

Michael Vallejos, 2nd Judicial District

Shannon Carst, Colorado Community Corrections Coalition

**GUEST**

Jeanne Smith, Division of Criminal Justice

**STAFF**

Paul Herman, CCJJ consultant

Christine Adams, Division of Criminal Justice

<p><b>Issue/Topic:</b></p> <p>Welcome</p>	<p><b>Discussion:</b></p> <p>Mr. Weir started the meeting at 1:15 p.m. He had everyone introduce themselves including staff and the audience.</p>
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<p><b>Issue/Topic:</b></p> <p>Feedback from Jeanne Smith about the progress of past recommendations</p> <p><b>Action</b></p>	<p><b>Discussion:</b></p> <p>Ms. Smith came to report to the group what has been happening with some of the recommendations that came from this task force but hadn't moved forward due to funding issues.</p> <ul style="list-style-type: none"> <li>• By doing a budget amendment request, the <i>Results First</i> program created an opportunity to do something with some of the recommendations from this task force that became SB 15-007 last year but failed because of the fiscal note.             <ul style="list-style-type: none"> <li>○ The budget amendment seeks to re-purpose approximately \$2M to develop a CBT pilot program and to develop and implement the program evaluation tool. This will cover:                 <ol style="list-style-type: none"> <li>1. 48 beds (or 200 people annually) over 5 years (approximately 1000 people, total).</li> <li>2. Program evaluation (\$20,000 for a consultant and 3 FTE positions for DCJ to develop and provide CBT evaluations).</li> </ol> </li> <li>○ Hopefully then this would be a step toward the whole of what SB 15-007 intended.</li> <li>○ This is being presented to the legislature this session and the governor's office is pushing for it. So while it's not guaranteed we're hopeful.</li> <li>○ We're less certain about what else we can do to move items from SB 15-007 forward.                 <ul style="list-style-type: none"> <li>• Options for DCJ to look at additional support to move the evaluation tool forward have been suggested. This is still being worked on but we're very hopeful.</li> </ul> </li> </ul> </li> </ul> <p>The way the community corrections budget is accomplished is typically by reverting money but rather than continuing to give money up due to underutilization of beds, the goal would be to re-purpose the money to achieve these identified objectives.</p> <p>The RFP would not be before July.</p>
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<b>Issue/Topic:</b>	<b>Discussion:</b>
<p data-bbox="94 344 526 449">CDAC response to the Mandatory Parole Subcommittee Recommendation</p> <p data-bbox="264 495 355 527"><b>Action</b></p>	<p data-bbox="553 344 1490 449">Mr. Weir presented the Colorado District Attorney’s Council’s (CDAC) response to the Mandatory Parole Subcommittee recommendation that was presented and tabled by the Commission in December (see letter at end of minutes).</p> <p data-bbox="553 485 1490 585">The following points were made by members of the task force to Mr. Weir for him to take back to the CDAC and Dave Young (the other DA representative of the CCJJ, and co-author of this letter)</p> <ul data-bbox="651 632 1500 1308" style="list-style-type: none"> <li>• DAs like the certainty and clarity but think there needs to be some fine tuning.</li> <li>• Earned time was a huge issue for this group because it presented a “carrot and stick” motivation. There is significant concern that that seems to have been removed here.               <ul style="list-style-type: none"> <li>○ Mr. Mauro stated that we don’t want offenders to simply find the fastest way out.</li> <li>○ Mr. Cannata stated that if their time is already being reduced we don’t want them to receive earned time on top of that.</li> </ul> </li> <li>• The parole division makes recommendations to the board but only the parole board can make the final release decision.</li> <li>• Inmates in community corrections wouldn’t receive earned time while those in prison would. Would this cause a legal problem by treating two inmates differently?</li> <li>• One task force member stated that POs don’t “frequently grant early terminations from parole” but that this occurs because of earned time.</li> <li>• This letter seems to mix parole and inmate status.</li> </ul> <p data-bbox="553 1350 1430 1413">This letter will be presented to the Commission to take into consideration before voting on the recommendation in March.</p> <p data-bbox="553 1455 1466 1556">The CCJJ is meeting tomorrow but this will not be discussed. We just want to get this to them and it not be a surprise when the original recommendation comes back up for a vote in March.</p> <p data-bbox="553 1598 1451 1661">Feedback on this can be sent to Mr. Weir or CCJJ staff to disseminate to the Commission appropriately.</p>

<b>Issue/Topic:</b>	<b>Discussion:</b>
<p>Report back from remaining small groups</p> <p><b>Action</b></p>	<p>Mr. Herman went over the priority/dot method that was done in January and showed that the 5 items were prioritized as follows:</p> <ol style="list-style-type: none"> <li>1. Outcomes</li> <li>2. Maximizing/Utilizing Specialized Beds/After Care</li> <li>3. Presumptive Parole</li> <li>4. CRCF</li> <li>5. Relationship between Parole Board and Community Corrections</li> </ol> <p>The following items still need to be discussed. Following this discussion we will decide where they fit into the above lineup:</p> <ul style="list-style-type: none"> <li>• Align CPO and Community Corrections (green dot)</li> <li>• ISP Inmate Status (red dot)</li> </ul> <p>ISP Inmate Status:</p> <ul style="list-style-type: none"> <li>• In terms of public opinion, one cause of concern is having inmates out in the community. But what are the problems you’ve run into?</li> <li>• Mr. Kildow asked what, two years ago, would have been the ISP population compared to now?             <ul style="list-style-type: none"> <li>○ Two years ago Offenders could be directly referred from DOC facilities to ISP. But that was ceased. Now people must go through community corrections before being placed on ISPI.</li> <li>○ There are around 1600 people on ISPI now. Some could be community corrections completions.</li> <li>○ Many less are active in ISPI now (320, according to Paul Hollenbeck).</li> <li>○ The mandatory parole subcommittee’s recommendation (or the DA’s counter recommendation) essentially gets rid of ISPI if there is no earned time. But with earned time there could potentially still be 4 months of ISPI.</li> <li>○ Is ISPI status something we need to look at in the future?                 <ul style="list-style-type: none"> <li>▪ Ms. Roberts stated “not if we’re going the way of the recommendation with parole. If we’re shortening parole, which is good, and limiting earned time there won’t be enough time for ISPI.”</li> </ul> </li> <li>○ When the Mandatory Parole Subcommittee recommendation was first discussed there was a lot of input from providers that inmate status is itself an incentive to finish a program. Ideally someone will finish a program before they can parole.</li> <li>○ If they have to do 12 months no matter what you create a disincentive to get anything done.</li> </ul> </li> <li>• Problem cohort:             <ul style="list-style-type: none"> <li>○ Current ISPI – for a variety of reasons this group has a long</li> </ul> </li> </ul>

time until their mandatory release date (MRD) but all have hit their parole eligibility date (PED).

- Some county boards have rules regarding a second review that counters the Attorney General's interpretation of the statute that is making it difficult for someone to get out to ISPI.
- Doesn't seem to be a group that this task force can affect right now.
- Ms. Roberts stated that the removal of this status, or any status (inmate in prison and community corrections, then a parolee) would solve many correctional problems.
- Theoretically there will be a similar problem with no earned time? Yes unless you have a ¾ house or something like that.

#### Aligning the (Community Parole Officer) CPO and Community Corrections

- Each facility has at least one CPO. They are parole officers that are assigned to community corrections facilities.
  - What exactly they do and who they interact with and when will vary by CPO and program.
- Courtney Kramer (DCJ/Office of Community Corrections) and Dawn McCarter (CMI-Ulster) met with others to discuss this issue.
- Are there set standards for CPOs from the DOC/Parole office? No, but Ms. Roberts' expectations are exactly what Ms. McCarter just described regarding the CPO and CM relationship and communication.
  - Probation is similar – but they are dealing with direct sentences.
- Sometimes it's a matching issue. Not everyone is good in all situations (e.g., not all POs are good in treatment courts but they might be good with high risk cases).
- Ms. Schamper stated that sometimes they may be looking through a certain lens and it often takes merging multiple views to handle a case best.
- Ms. Roberts stated that she likes having expectations for the case manager and parole officer. We always put expectations on the offenders but we should have expectations for these groups as well.
- As part of *Be Smart* program we want something on the grid for when we're talking about termination.

Mr. Herman noted that the Reentry Task Force has been looking at conditions of parole and community corrections (as well as probation) as part of their conversation.

<p><b>Issue/Topic:</b></p> <p>Follow-Up to Previous Dot Activity</p> <p><b>Next Step:</b></p>	<p><b>Discussion:</b></p> <p>The attendees were asked to place the red and green dot they were given today in the list from last month (see above) to place the new items in order of importance. The following list is the final order or priority with today's new items color coded.</p> <ol style="list-style-type: none"> <li>1. Outcomes</li> <li>2. <b>ISP Inmate Status (red dot)</b></li> <li>3. Maximizing/Utilizing Specialized Beds/After Care</li> <li>4. Presumptive Parole</li> <li>5. <b>Align CPO and Community Corrections (green dot)</b></li> <li>6. CRCF</li> <li>7. Relationship between Parole Board and Community Corrections</li> </ol>
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<p><b>Issue/Topic:</b></p> <p>Finalize Priorities</p> <p><b>Next Step:</b></p>	<p><b>Discussion:</b></p> <p>Mr. Herman stated that one of things we're asking task force chairs to discuss at tomorrow's Commission meeting is the top three items from each group.</p> <p>Mr. Herman stated that the Commission will also discuss the Governor's letter to Mr. Hilkey (chair of the CCJJ) regarding the Commission and they will identify priorities for whole Commission.</p> <p>Sometime after tomorrow's meeting we'll be able to send out information regarding overall Commission goals. So it would a bit premature to discuss next steps at this point.</p>
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Adjourned at 3:15 pm

**Meeting Schedule and Location for Remainder of 2015 and All of 2016**

Thursday, April 7 <sup>th</sup>	1:00pm -4:30pm	700 Kipling St., 4th floor training room (Note: This is NOT the 2 <sup>nd</sup> Thursday)
Thursday, May 12 <sup>th</sup>	1:00pm -4:30pm	710 Kipling St., 3rd floor conference room
Thursday, June 9 <sup>th</sup>	1:00pm -4:30pm	710 Kipling St., 3rd floor conference room
Thursday, July 7 <sup>th</sup>	1:00pm -4:30pm	700 Kipling St., 4th floor training room (Note: This is NOT the 2 <sup>nd</sup> Thursday)
Thursday, Aug. 11 <sup>th</sup>	1:00pm -4:30pm	710 Kipling St., 3rd floor conference room
Thursday, Sept. 8 <sup>th</sup>	1:00pm -4:30pm	710 Kipling St., 3rd floor conference room
Thursday, Oct. 13 <sup>th</sup>	1:00pm -4:30pm	700 Kipling St., 4th floor training room (Note: This is NOT the 2 <sup>nd</sup> Thursday)
Thursday, Nov. 10 <sup>th</sup>	1:00pm -4:30pm	710 Kipling St., 3rd floor conference room
Thursday, Dec. 8 <sup>th</sup>	1:00pm -4:30pm	710 Kipling St., 3rd floor conference room

TO: COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

FROM: District Attorneys Peter Weir and David Young, on behalf of the Colorado District Attorneys' Council

DATE: February 9, 2016

RE: Recommendations for Parole Reform

This proposal is respectfully submitted to the Colorado Commission on Criminal and Juvenile Justice (CCJJ) as an alternative to the recommendations offered by the Mandatory Parole Subcommittee. We recognize the dedication and efforts of the Mandatory Parole Subcommittee; their goal of developing consensus on such a complex issue, particularly given the time constraints, was laudable. Several of their recommendations were reasonable and would not pose a risk to public safety and/or the rehabilitation of offenders. Other recommendations, however, cause significant concern for prosecutors, victims, and treatment providers. The first section of this memo provides a brief summary of recommendations from the Mandatory Parole Subcommittee, along with our concerns regarding those specific recommendations. The second part of this memo offers a proposal drafted in response to, and in consideration of, these concerns.

#### **Proposal from Mandatory Parole Subcommittee**

The Mandatory Parole Subcommittee recommended that persons convicted of a Crime of Violence (COV, C.R.S. 18-1.3-406) be released to mandatory parole after serving a minimum of 75% of his/her sentence. This recommendation did not include those offenses that require crime of violence sentences but are not specifically listed in C.R.S. 18-1.3-406.

Individuals serving a sentence for a non-COV crime would be released to mandatory parole after serving a minimum 50% of his/her sentence. This recommendation failed to consider the number of non-COV crimes that fall under Colorado's Victim Rights Act (VRA) (C.R.S. 24-4.1-302). These offenses are violent in nature, but not classified by statute as COV offenses. For example, the current recommendation would allow an individual convicted of manslaughter or robbery to serve only 50% of the sentence imposed by the Court.

The Parole Subcommittee also recommended that the Colorado Actuarial Risk Assessment Scale (CARAS) would determine mandatory parole periods. This recommendation failed to adequately recognize the importance of the Level of Service Inventory (LSI). Perhaps more importantly, this recommendation removes the authority and discretion of the Parole Board in determining the appropriate period of parole. While risk assessment tools are valuable, the potential for re-offense, risk to public safety, and the successful completion of treatment programs must be carefully considered in determining the length of parole. It is also critical that the victim's position be considered in setting the length of the parole period. The Parole Board must have the discretion to make the right decision in setting the period of parole, just as parole officers do in granting early terminations.



The Mandatory Parole Subcommittee suggested that the Crime of Violence (COV) mandatory parole periods be set at 6 months, 1 year, or 2 years – depending on risk level. The Non – COV parole periods would be set at 6 months or 1 year, depending on the risk level score. These periods of parole are far too short. The current parole periods are up to five (5) years. In order to ensure that effective treatment and rehabilitation programs are successfully completed, a period of parole should be of a sufficient duration to accommodate programs. In addition, parole officers frequently grant early terminations from parole. Under the parole periods recommended by the Parole Subcommittee, and with the opportunity to award earned time while on parole and the early termination of parole as a near certainty for most offenders, the ability to monitor conduct and provide support for a successful reintegration to our society is grossly inadequate.

### **Proposal from Colorado District Attorneys' Council**

***Objective:*** *To increase clarity regarding the time individuals will serve in prison and to create a mechanism whereby an offender's date of release from the Department of Corrections is determined by the nature of the offense. This proposal will not be applied retroactively. This proposal does not apply to those serving sentences for indeterminate life sentences for sex offenses, or other life sentences.*

Persons convicted of an offense listed as a Crime of Violence (COV, C.R.S. 18-1.3-406), or an offense subject to sentencing as a Crime of Violence, would be released to mandatory parole after serving a minimum of 75% of his/her sentence. Please be advised that there are offenses that require COV sentencing which are not listed in 18-1.3-406. See attached for a draft list.

Individuals serving a felony sentence for a non-COV crime that falls under Colorado's Victim Rights Act (VRA, C.R.S. 24-4.1-302) would be released to mandatory parole after serving a minimum of 65% of his/her sentence. This list would include, for example, the crimes of vehicular homicide, vehicular assault, manslaughter, criminally negligent homicide, menacing, robbery, aggravated robbery of a controlled substance, child abuse, and crimes of domestic violence. In addition, several VRA offenses are classified as COV if committed with a weapon. For example, any offense that included the use or possession and threatened use of a deadly weapon against an at-risk victim would fall in this category.

Individuals serving a sentence for a non-COV crime would be released to mandatory parole after serving a minimum of 50% of his/her sentence. If an individual is convicted of both a COV and a VRA offense, the sentence for the COV shall control. If an individual is convicted of both a non-COV and a VRA offense, the sentence and parole period for the highest-level offense shall control. For example, an individual may be convicted of second-degree burglary, a Class 3 felony, not a crime of violence, as well as Menacing, a Class 5 felony, a VRA offense. In determining the length of the minimum, mandatory sentence, the non-COV Class 3 felony would control.

Time served will take into consideration earned time. Earned time will vest monthly. For example, individuals sentenced for a COV would serve between 100% and 75% of the sentence, depending on earned time awarded. This proposal does not apply to those serving sentences for indeterminate life sentences for sex

offenses, or other life sentences. Additionally, this proposal is not retroactive. This proposal would also eliminate good time.

The Parole Board has the discretion to set the period of parole up to three years, irrespective of the nature of the offense. The following are the presumptive periods of parole subject to the discretion of the Parole Board:

- Very Low / Low Risk            1 year
- Medium Risk                      2 years
- High / Very High Risk          3 years

The Parole Board is required to consider the risk to the community when setting the period of parole. The Parole Board must also evaluate the successful completion of treatment, vocational, and educational programs in determining the length of parole. In determining the parole periods, both the Colorado Actuarial Risk Assessment Scale (CARAS) and the Level of Service Inventory (LSI) would be considered. Parolees will continue to be eligible for early termination of parole. In all cases, victim input shall also be considered, if available. Earned time will not be awarded to parolees. Setting the conditions of supervision and making revocation decisions would continue to be the responsibility of the Parole Board.

A person who is serving a sentence may be placed in a community corrections program as a condition of parole twelve months prior to his/her mandatory release date. If a person is placed in Community Corrections on inmate status, the participation in and successful completion of Community Corrections shall be considered in determining the length of parole. Earned time is not awarded when the person is in Community Corrections.

There shall be a review of the mechanism for victim notification and input on the length of parole, the setting of terms and conditions of parole, and on early terminations and revocations of parole.

Any cost savings from this proposal will be split equally between community - based services for victims and offenders.

The following is a list of offense which require crime of violence (COV) sentencing which do not fit the definition of a crime of violence as listed in C.R.S. 18-1.3-406 (use of a deadly weapon or causing serious bodily injury in the commission of one of the enumerated offenses), not including sexual offenses requiring an indeterminate sentence:

Pursuant to 18-1.3-401, some convictions have the same requirements as a crime of violence sentence without reference to the crime of violence statute:

Child abuse resulting in either death or serious bodily injury if committed knowingly or recklessly;

Vehicular homicide if the defendant was in immediate flight from the commission of another felony;

First degree assault, 18-3-202(1)(e), (1)(e.5), (1)(f);

Second degree assault, 18-3-203(1)(c);

Second degree kidnapping, 18-3-302, if accomplished:

With intent to sell, trade, or barter the victim for consideration, or

By the perpetrator representing verbally or otherwise that he is armed with a deadly weapon;

First degree arson, 18-4-102;

Special drug offender requires a DOC sentence, but not in reference to 18-1.3-406.

## **CCJJ Community Corrections Task Force: 2016 Areas of Interest**

At the end of the January meeting, the topics of interest were put in the following order of priority (the number indicates the # of dots given to each item):

6. Outcomes (13)
  
7. Maximizing/Utilizing Specialized Beds/After Care (8)
  
8. Presumptive Parole (7)
  
9. CRCF (4)
  
10. Relationship between Parole Board and Community Corrections (3)

The topics below had yet to be discussed and need to be placed in the order of priority:

- Align CPO and Community Corrections
  
- ISP Inmate Status